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BOURQUE & ASSOCIATES, P.A.  
SUITE 301  
835 HANOVER STREET  
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**SEP 13 2006**

**OFFICE OF PETITIONS**

In re Application of  
Shane Record  
Application No. 10/776,080  
Filed: February 11, 2004  
Attorney Docket No. WBELT-007XX

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**ON PETITION**

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 12, 2006, to revive the above-identified application. This is also a decision on the petition to withdraw from issue, filed September 12, 2006, which is being treated under 37 CFR 1.313(c)(2). See 1233 *Official Gazette* 54 (April 11, 2000).

The petition under 37 CFR 1.137(b) is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). The instant petition lack(s) item(s) 1.

The statute is clear that failure to timely pay the issue fee within three months of the mailing date of the Notice of Allowance and Issue Fee Due will result in abandonment of the application. In this case, the Notice of Allowance was mailed on January 20, 2006. Therefore, this application became abandoned by operation of law on April 21, 2006. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The petition does not comply with the requirements of 37 CFR 1.137(b).

Consequently, the petition under 37 CFR 1.313(c)(2) is also **DISMISSED**.

<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

Any request for reconsideration of the decisions must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted; however, no further petition fee is required. The reconsideration request should include a cover letter entitled "Renewed Petition for Revive under 37 CFR 1.137(b) and Renewed Petition to Withdraw from Issue" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

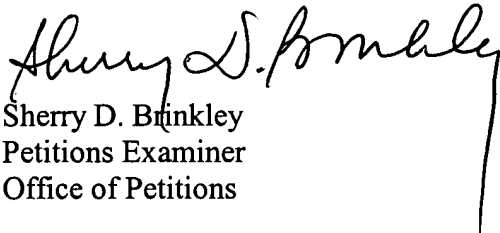
Further correspondence with respect to this matter should be addressed as follows:

By mail:                Mail Stop PETITION  
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By hand:              U.S. Patent and Trademark Office  
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The centralized facsimile number is (571) 273-8300.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions